

Law Firm Pro Bono Programs: Learning from Success

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Background

The D.C. Circuit Judicial Conference Standing Committee on Pro Bono Legal Services has surveyed law firms over a three-year period to learn what percentage of lawyers at each firm have individually met the 1998 Judicial Conference Pro Bono Resolution standard of devoting at least 50 hours each year to pro bono legal work. A small but growing number of law firms report that at least 40% of their lawyers had met this threshold; most firms surveyed report that roughly 25% or fewer of their lawyers have performed this minimum amount of pro bono legal work. In 2003 and 2004, Chief Judges Douglas H. Ginsburg and Thomas F. Hogan hosted the *'40 at 50': Judicial Pro Bono Recognition Breakfast*, for firms at which at least 40% of all lawyers have met the 50-hour goal. In 2003, seven firms attended the event, and in 2004, twelve firms qualified to attend. A list of qualifying firms is attached.

At the May 11, 2004 *'40 at 50' Breakfast*, the Chief Judges challenged the legal community to increase to eighteen the number of firms that will qualify to attend in 2005. This is an ambitious goal, which can be reached only if law firms examine their own pro bono programs to secure participation in pro bono legal work from a broad range of lawyers – associates, counsel, and partners. In order to assist law firms in their efforts to evaluate and enhance their pro bono programs, the Standing Committee undertook a 'Best Practices' Project. The goal was to have informal conversations with a number of the qualifying *'40 at 50'* firms to learn how their pro bono programs worked, and to understand why such a relatively small group of law firms have been so strikingly successful in encouraging and supporting pro bono legal work by so many of their lawyers. This document presents some of the key information learned during the 'Best Practices' Project. We hope it will be a useful tool for firms working to improve their pro bono programs.

1. Make Pro Bono Part of the Firm's "Culture"

Every firm has a "culture" – a particular way of doing business, training lawyers, and providing legal services to clients. The firms that have folded pro bono legal work into this culture, not surprisingly, are the firms with the most successful pro bono programs. Several firms described to us their historically strong participation in pro bono legal work. These firms explained that talented lawyers who are interested in maintaining a pro bono practice are drawn to them. As one lawyer noted: "Our firm has a historic culture of public service, so like-minded attorneys want to come work here."

Firms that do not benefit from a long history of involvement in pro bono legal matters can take steps to change their pro bono culture. Several firms shared with us the steps they had taken to strengthen their pro bono programs to make pro bono work a core part of lawyers' careers there. They emphasized that no single model of pro bono program is going to work at every firm. Factors such as a firm's governance structure, attorney compensation structure, and substantive areas of practice must all be considered in designing or expanding a pro bono program. Some of the core characteristics of successful programs are outlined in this paper. With steady, long-term, and visible commitment to pro bono, it can become an integral part of any firm's culture.

2. Set Up A Pro Bono Infrastructure That Fits Your Firm

All the law firms we spoke with have an infrastructure to develop, assign, and manage pro bono work. The firms we spoke with ranged in size from 25 attorneys to over 250. Some were single-office firms, others were D.C. offices of national firms; several were headquarters offices. Each firm's pro bono program was set up in a different way, but there were common, core aspects.

- Establish clear accountability for the pro bono program. Lawyers carry out their assignments – it is part of the legal work ethic. As a result, it is not surprising that when someone is appointed to manage a firm's pro bono program, the program thrives. All of the '40 at 50' firms have someone assigned to run their pro bono program. In some cases, it is a duty collateral to a lawyer's other work; other firms have one or two people whose only assignment is the day-to-day management of the firm's pro bono program. Even when pro bono program management is just part of a lawyer's portfolio, we learned that firm leadership understands – and expects – that administration of the pro bono program will consume at least 25%, and sometimes more, of that lawyer's time. In addition, firms have a pro bono committee, typically made up of partners and associates. The role of pro bono committees varies with the particular needs of the firm. A firm with offices in many cities may have a pro bono committee in each office focused on local concerns, or it may have a national pro bono committee that addresses broader, firm-wide policy issues. Similarly, a firm with only one office may use a pro bono committee to screen possible pro bono matters, or to fill a policy-making role.
- Include senior lawyers in the pro bono infrastructure. The size of a firm may drive the kind of infrastructure that is in place: one of the smaller firms we spoke with uses its management committee to address pro bono issues; another firm of the same size has a pro bono committee and a partner assigned to coordinate pro bono work. The common thread is the involvement of both mid-level and senior-level attorneys in committees that address pro bono issues. This ensures that a consistent message is sent about the importance of pro bono to the firm and to individual lawyers throughout their careers.
- Hire someone good to run your pro bono program. Firms are increasingly hiring staff, typically an attorney, to coordinate pro bono matters. Depending on the size of the firm involved, these positions are either full- or part-time – the key, as one firm described it, is to “hire someone who can be an organized, enthusiastic, and effective administrator, case supervisor, and cheerleader.” The best firms make sure that their pro bono counsel is visibly supported by a strong committee, senior management, or both. They also ensure that the pro bono counsel is focused not on just doing pro bono work, but on engaging as many lawyers as possible in pro bono work. Pro bono counsel develop relationships with area legal services providers, provide orientations for incoming attorneys, and help firm lawyers find pro bono matters of interest to them. In addition, some pro bono counsel supervise and train firm lawyers in the skills needed to handle particular pro bono cases, and also carry their own pro bono caseload. Some of these pro bono counsel moved from a regular attorney position in the firm into the pro bono job; others were hired from the legal services community. One firm noted that until the firm dedicated an attorney position to the pro bono program, there was limited pro bono

participation at the firm, in spite of written policies encouraging and setting targets for pro bono.

3. Ensure Pro Bono Has a Place in Firm Policies

A written policy that makes it clear pro bono legal work by lawyers is both supported and expected is, as one firm said, “the bedrock of the firm’s pro bono practice.” Again, this is a matter that is largely driven by firm culture. Firms with fewer written policies may have fewer written policies on pro bono, while those that have more written policies tended to have more that addressed pro bono. The message we heard from the firms we interviewed was again fairly simple at its core: if a firm has a written policy concerning the level and kind of work its lawyers should do, specific provision should be made for pro bono work. Some examples of policies in place in the various firms with which we spoke include:

- Allowing pro bono hours to count towards billable minimums, with or without a “cap”.
- Allowing pro bono hours to count for purposes of bonuses.
- Including performance on pro bono cases in associate evaluations.
- Setting a minimum number of pro bono hours lawyers should perform each year.
- Including pro bono hours in monthly and other regular reports of attorney hours.
- Assessing compliance with the pro bono minimum in associate annual evaluations.

Overall, the goal of firms’ policies on pro bono is to send an unambiguous message that pro bono work matters to decision-makers at the firm, that it is treated the same as work for paying clients, and that doing pro bono work and doing it well is important to a lawyer’s career at the firm.

4. Get the Right Pro Bono Cases for Your Lawyers

Successful pro bono programs are tailored to the needs and interests of the lawyers in the particular firm. At least three different, but complementary, ways to achieve this goal emerged from our conversations with firms.

- Develop relationships with legal services providers. Several firms have developed relationships with area legal services providers, and get most of their pro bono cases from these providers. This allows the firms to build up in-house expertise on the kinds of cases typically handled by the legal services provider, making it easier to place cases and find partners to supervise matters. The legal services providers, in turn, often reach out to these firms first when there is a large or particularly attractive case needing pro bono counsel.
- Identify and meet law firm practice needs. Firms with full-time pro bono counsel indicated that they seek to identify needs and interests among lawyers within the firm, and then find pro bono

opportunities that meet those needs. Several firms felt strongly that the key reason they were able to involve many different lawyers in pro bono work was because they had pro bono matters that appealed to many different kinds of lawyers. For example, several firms reported that their associates both needed and wanted hands-on courtroom experience. They responded by identifying pro bono opportunities that would reliably provide this kind of experience. Similarly, one firm reported that it has developed a range of non-litigation pro bono opportunities in order to provide lawyers with no interest or experience in litigation the chance to do pro bono work. Examples of such opportunities include non-profit incorporation and community development matters. One pro bono counsel has had success in recruiting lawyers with a transactional/mergers and acquisition focus to handle adoptions. He explained that once he re-cast the legal work involved in adoptions as “the transfer of an asset (the child) from one entity (foster services) to another (the adoptive parent)” it seemed more familiar, and more attractive, to transactional lawyers. The key seems to be flexibility and creativity in finding pro bono opportunities and matching them with existing interests and needs.

- Use technology to aid in placing cases. One of the most time-consuming parts of managing a pro bono program can be learning of lawyers’ interests and then matching available lawyers with available opportunities. Several firms rely on an intranet system to help with this process, posting opportunities on a pro bono page that is directly linked to the screen that first comes up when a lawyer logs on to a computer. Another firm keeps a database with lawyers’ interests, so the pro bono coordinator can easily contact a small group of interested lawyers when specific pro bono matters arise. Most of the firms with which we spoke use e-mail to communicate available opportunities.

5. Keep Pro Bono Visible by Articulating and Demonstrating Expectations

All of the firms we spoke with take significant steps to keep pro bono a visible, meaningful part of a lawyer’s life at the firm. We learned that there are some common steps taken that successfully send the message to lawyers at the firm that pro bono legal work is part of the firm’s practice.

- Partners are visibly and deeply engaged in pro bono. Firms with the most successful pro bono programs reported that their partners – from the most senior through the most junior – are actively and visibly engaged in pro bono matters. Nothing sends a stronger message about the viability of a firm’s pro bono program than having its partners handling, supervising, and talking about pro bono legal work.
- Pro bono is part of the new associate and lateral hires’ orientation. There was broad consensus that when new lawyers’ introduction to the firm includes discussion of the firm’s pro bono program, articulation of pro bono expectations, and direct contact with the person who can help them get pro bono cases, it significantly increases participation in pro bono. Some firms therefore include pro bono as part of a broader orientation meeting. Other firms have the pro bono counsel meet individually with new associates and lateral hires shortly after they start at the firm.

- Pro bono is on the agenda of regular firm meetings. A number of the firms we spoke with indicated that whenever there are regular firm-wide meetings, the pro bono program is on the agenda. Treating pro bono as an integrated part of the firm's practice, rather than an adjunct or extracurricular activity, was seen as an important step in making pro bono a meaningful part of lawyers' careers at the firm.
- Pro bono cases are included in reports about firm accomplishments. A number of the firms we spoke with had newsletters that highlight aspects of the firm's pro bono programs. Some firms distribute these materials in hard copy, and find them to be attractive for marketing to clients and presenting the firm to potential recruits; others use a firm-specific intranet, or website to publicize accomplishments. Firms tended to use the same kind of platform used by the firm to advertise or publicize its other work.

Several of the firms we spoke with took additional steps to ensure that lawyers were aware of the firm's pro bono program. One firm includes an element in associate evaluations addressing whether the associate met the minimum number of hours of pro bono legal work set out in the firm policy. Associates that have not met this target are asked to meet with the firm's pro bono counsel to develop a plan to meet it in the coming year. Another firm has an annual orientation on pro bono for new attorneys – attendance is also required for any lawyer who has not met the pro bono target that year. Another firm expects its new lawyers to take on at least one case beginning six months after arriving at the firm.

6. Reap the Collateral Benefits

Performing pro bono legal work is good for the community -- and some would say it is good for the soul. We learned that it is very good for business, as well.

- Pro bono is good for client relations. Several firms told us that corporate clients had been impressed by the firm's pro bono work. When there is competition among high-quality law firms for business, having an active pro bono program can tip the scales in a firm's favor. One firm reported that when a large, nationwide corporation learned that the firm was working with the same national non-profit as the corporation, the company began to send more work the firm's way.
- A strong pro bono program is a potent recruiting tool. A number of top-flight firms told us that their pro bono program makes them very attractive to new lawyers, including those coming out of prestigious clerkships. Law firms explained that bright, talented new lawyers are very interested in working on cutting-edge legal issues, or in having the chance to work directly with clients and appear in court early in their careers.
- A diverse pro bono program is a fertile training and skill-building ground. We spoke with firms ranging in size from 25 lawyers to those with over 250 attorneys. All of them echoed that pro bono cases can help develop critical lawyering skills in newer attorneys. Several reported that

their partners were actively involved in pro bono legal work in part to maintain their courtroom skills, as the larger civil matters they handled for paying clients brought them into court with far less frequency.

7. Tap Available Resources for More Information

Firms that are interested in learning more are encouraged to access the many resources available in the Washington, DC legal community. A good starting place may simply be a law firm with a healthy pro bono program. Pro bono partners and pro bono counsel or coordinators at area law firms are often the best resource for programmatic and substantive information, and are very willing to both help – and learn from – others.

- Get help in strengthening your pro bono program.

DC Bar PART Program: Join over 100 law firms with organized pro bono programs at regular meetings, at which participants learn of emerging and critical pro bono needs, as well as exchange ideas for enhancing their own pro bono programs. The PART Program will soon have a practice area on probono.net/dc that will allow members to share firm policies, practices and other information. Contact: DC Bar Pro Bono Program, 202.737.4700 ext. 293 or probono@dcbar.org

DC Bar Pro Bono Initiative: Participating firms annually report pro bono performance to the DC Bar on a confidential basis, and receive information in return that allows them to assess their pro bono performance with comparable firms in D.C. Contact: DC Bar Pro Bono Program, 202.737.4700 ext. 293 or probono@dcbar.org

Pro Bono Institute at Georgetown University Law Center: PBI's Law Firm Pro Bono Project offers to law firms with at least 50 lawyers information, materials, and consultative services on pro bono programs. More information is available at: www.probonoinst.org

- Locate pro bono cases appropriate for your firm.

www.probono.net/dc: This website includes a library of training materials, model pleadings and other materials, postings of volunteer opportunities, descriptions of the District's legal service organizations. Current substantive areas are: Asylum, Employment, Civil Rights, Family Law, Community Development, Housing, Death Penalty, and Public Benefits.

www.dcbar.org: The District of Columbia Bar provides a directory, searchable by subject area, of area legal services providers with pro bono opportunities. From the Bar website, click on "For Lawyers," "Pro Bono," and "Resources," for a link to the Directory of Legal Services Providers. Or contact staff of the DC Bar Pro Bono Program at 202.737.4700, ext 293 or probono@dcbar.org for advice and assistance finding pro bono projects and partner organizations.

“40 at 50” Firms

2003 ‘40 at 50’ Firms

Arnold & Porter
Covington & Burling
Fried, Frank, Harris, Shriver & Jacobson
Jenner & Block
Latham & Watkins
Piper Rudnick
Wilmer, Cutler & Pickering

2004 ‘40 at 50’ Firms

Arnold & Porter
Covington & Burling
Debevoise & Plimpton
Dickstein & Shapiro
Fried, Frank, Harris, Shriver & Jacobson
Greenberg, Traurig
Howrey, Simon, Arnold & White
Jenner & Block
Latham & Watkins
Spiegel & McDiarmid
Shea & Gardner
Wilmer, Cutler & Pickering